

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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ATKINSON POLICE ASSOCIATION	:	
	:	
	:	CASE NO. P-0729
v.	:	
	:	
TOWN OF ATKINSON, N. H.	:	DECISION NO. 80018
	:	

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APPEARANCES

Representing the Police Association:

William C. McNulty, Spokesman  
Vincent Dowd  
Patrick Judge

Representing the Town of Atkinson:

Sumner Kalman, Esquire  
Meredith Reynolds, Chairman, Board of Selectmen  
Philip Consentino, Chief

BACKGROUND

On February 13, 1980, Vincent J. Dowd, President, on behalf of the Police Association filed a petition for certification for a proposed unit of part-time police officers of the Atkinson Police Department.

The Town through its counsel, Sumner Kalman, filed objections to the proposed unit and raised several issues with regard to the appropriateness of the unit; specifically, the Town felt they were excluded under RSA 273-A:1, Section X, (d) which states:

"Persons in a probationary or temporary status, or employed seasonally, irregularly, or on call. For the purpose of this Chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than twelve months, or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he is employed."

Further, the Town stated that the officers were appointed pursuant to RSA 105:1 which states:

"The Selectmen of a town, when they deem it necessary, may appoint special police officers who shall continue in office during the pleasure of the Selectmen, or until their successors are chosen or appointed."

FINDINGS OF FACT

1. The Town of Atkinson has ten (10) regular part-time officers on the force which includes among the ten, the Chief.
2. RSA 273-A:8, II specifically prohibits persons exercising supervisory authority involving the significant exercise of discretion from belonging to the same bargaining unit as the employees they supervise.  
The Chief, therefore, could not be part of the proposed unit and,
3. RSA 273-A:8, I, Section (d), states, "In no case shall the board certify a bargaining unit of less than ten employees with the same community of interest."

BOARD DECISION

Having failed to meet the requirement under Section (d) of RSA 273-A:8, I, the petition filed by the Atkinson Police Association is hereby denied.



EDWARD J. HASELTINE, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 25th day of April, 1980.

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Russell F. Hilliard and Robert D. Steele present and voting. Also present, Executive Director Evelyn C. LeBrun.